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8 **BEFORE THE**
BOARD OF REGISTERED NURSING
9 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

10 In the Matter of the Accusation Against:

Case No. *2013-334*

11 **TOMMY WAYNE MULLINAX**

A C C U S A T I O N

12 **7551 Jackson Trace Road**
13 **Lincoln, AL 35096**

14 **Registered Nurse License No. 601589**

15 Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., R.N. ("Complainant") brings this Accusation solely in her
20 official capacity as the Executive Officer of the Board of Registered Nursing ("Board"),
21 Department of Consumer Affairs.

22 2. On or about July 8, 2002, the Board issued Registered Nurse License Number 601589
23 to Tommy Wayne Mullinax ("Respondent"). The Registered Nurse License expired on
24 December 31, 2003 and has not been renewed.

25 **JURISDICTION**

26 3. Section 2750 of the Business and Professions Code (all section references are to the
27 Business and Professions Code unless otherwise noted) in pertinent part provides the Board may
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1 discipline any licensee, including a licensee holding a temporary or an inactive license, for any
2 reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

3 4. In pertinent part, Section 2764 provides the expiration of a license shall not deprive
4 the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to
5 render a decision imposing discipline on the license. Under section 2811 subdivision (b) the
6 Board may renew an expired license at any time within eight years after the expiration.

7 5. Section 118 subdivision (b) also grants the Board jurisdiction over suspended,
8 expired, forfeited, cancelled, or surrendered licenses:

9 "The suspension, expiration, or forfeiture by operation of law of a license
10 issued by a board in the department, or its suspension, forfeiture, or cancellation by
11 order of the board or by order of a court of law, or its surrender without the written
12 consent of the board, shall not, during any period in which it may be renewed,
13 restored, reissued, or reinstated, deprive the board of its authority to institute or
continue a disciplinary proceeding against the licensee upon any ground provided by
law or to enter an order suspending or revoking the license or otherwise taking
disciplinary action against the licensee on any such ground."

14 STATUTES

15 6. In pertinent part, Section 2761 authorizes the Board to discipline licensees who have
16 been disciplined by another state:

17 "The board may take disciplinary action against a certified or licensed
18 nurse or deny an application for a certificate or license for any of the following:

19 (a) Unprofessional conduct, which includes, but is not limited to, the
following:

20 ...
21 (4) Denial of licensure, revocation, suspension, restriction, or
22 any other disciplinary action against a health care professional license or
23 certificate by another state or territory of the United States, by any other
government agency, or by another California health care professional
licensing board. A certified copy of the decision or judgment shall be
conclusive evidence of that action."

24 COST RECOVERY

25 7. In pertinent part, Section 125.3 authorizes the Board to request an administrative law
26 judge to direct a licensee found to have committed a violation or violations of the licensing act to
27 pay a sum not to exceed the reasonable costs of the investigation and enforcement of the case and
28 provides the Board may include those costs in any settlement agreement.

1 CAUSE FOR DISCIPLINE

2 (Disciplinary Action by the Alabama Board of Nursing)

3 8. Respondent is subject to discipline pursuant to Section 2761 subdivision (a)(4) on the
4 grounds of unprofessional conduct because the Alabama Board of Nursing (Alabama Board)
5 disciplined his nursing license in May 2005, as follows:

6 9. On or about May 19, 2005, the Alabama Board accepted the voluntary surrender of
7 Respondent's Alabama nursing license to resolve the disciplinary action entitled *In the Matter of:*
8 *Tommy Wayne Mullinax License No. 1-084290.*

9 10. Under sections 610-X-8-.05, 610-X-8-.09(c)(v), and 610-X-8-.01(20) of the Alabama
10 Board of Nursing Administrative Code, a voluntary surrender of a license has the force and effect
11 of a license revocation and is considered disciplinary action by the Alabama Board. Furthermore,
12 in a settlement agreement, Respondent agreed the voluntarily surrender of his nursing license
13 "shall have the same effect as a revocation of my license."

14 11. Under section 2761 subdivision (a)(4) of the California Business and Professions
15 Code the Alabama Board's disciplinary action accepting the voluntary surrender of Respondent's
16 license in 2005 is grounds for the California Board to take its own disciplinary action.

17 PRAYER

18 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
19 and that following the hearing, the Board of Registered Nursing issue a decision:

20 1. Revoking or suspending Registered Nurse License Number 601589, issued to Tommy
21 Wayne Mullinax;

22 2. Ordering Tommy Wayne Mullinax to pay the Board of Registered Nursing the
23 reasonable costs of the investigation and enforcement of this case, pursuant to Business and
24 Professions Code Section 125.3; and,

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3. Taking such other and further action as deemed necessary and proper.

DATED: OCTOBER 26, 2012

Louise R. Bailey
LOUISE R. BAILEY, M.Ed., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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